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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/230,001	05/18/99	DE HEUS	E MULLE20.001A
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EXAMINER

THORNTON, K  
ART UNIT PAPER NUMBER

1744

DATE MAILED:

08/01/01

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Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

# Office Action Summary

Application No.

09/230,001

Applicant(s)

DE HEUS, EVERT BASTIAAN

Examiner

Krisanne M. Thornton

Art Unit

1744

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extension of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned priority term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is resumed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4.1 Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- 1 ☐ Certified copies of the priority documents have been received.
- 2 ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
- 3 ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 6.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

With respect to all claims, the use of "characterized in that" is improper for US patent practice and should be deleted.

With respect to claims 2 and 15, these claims are found to be vague and indefinite because they recite method terminology which does not properly establish structural limitations. Clarification is required.

With respect to claim 6, the recitation of "is available" renders the claim indefinite because it is unclear as to whether this limitation is required or optional.

With respect to claim 10, this claim is found to be vague and indefinite because it is unclear as to what would actually constitute "considerably larger".

With respect to claim 12, this claim is found to be vague and indefinite as it is attempting to define by itself with the recitation of "said sterilization apparatus". Also, "the fluid reservoir" lacks proper antecedent basis.

With respect to claim 14, this claim is improperly indefinite because it is attempting to further limit a fluid which is not positively provided in the apparatus.

### ***Claim Rejections - 35 USC § 102***

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The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-6, and 12 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Kalasek U.S. patent No. 4,263,258.

Kalasek teaches a double-walled boiler sterilization apparatus having computer controlled, timed actuation, with a fluid reservoir provided between the sterilization chamber and an outer wall with heating means there. Placement of the sterilization chamber is concentric, but offset within the outer wall.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

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Claims 10-11 and 14-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kalasek as applied above.

Kalasek teaches square or rectangularly shaped structures, however it would have been well within the purview of one of ordinary skill in the art to utilize a cylindrical shape therefore. As cylindrical sterilization structures are conventional in the art, and mere changes in shape are not held to be patentable distinctions. It is further noted that the use of demineralized water in steam sterilizers is well known and expected because it minimizes the occurrence of mineral deposits from condensate within the structure that would deter optimal effectiveness of the apparatus.

Claims 7-8 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kalasek as applied to claims 1-6, 9-12 and 14-15 above, and further in view of Brucker WO 92/01479.

Brucker teaches the use of lateral supports within a boiler sterilizer for support of articles to be sterilized as well as, the utilization of a hinged, sealing door for operation of the apparatus.

It would have been obvious to one of ordinary skill in the art to provide the lateral supports of Brucker in the structure of Kalasek because it would clearly allow for the sterilization of an increased number of articles simultaneously, and it would further have been obvious to utilize door means as those in Brucker for the purpose of sealingly enclosing the structure to optimize containment of sterilizing medium and temperature maintenance.

### ***Conclusion***

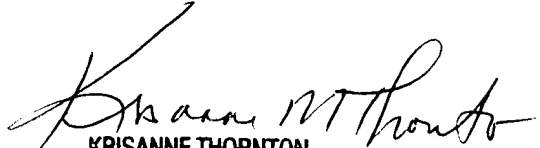
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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Krisanne M. Thornton whose telephone number is 703-308-3914. The examiner can normally be reached on Mon.-Wed. 6:30am-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert J. Warden can be reached on 703-308-2920. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-7718 for regular communications and 703-305-3599 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

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KRISANNE THORNTON  
PRIMARY EXAMINER

July 30, 2001